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Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-fourth session

Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-fourth session

I. Introduction

1. Part II of the 2018 session of the Legal and Technical Commission of the International Seabed Authority was held from 2 to 13 July 2018.

2. Twenty-seven members of the Commission attended the meetings. Théophile Ndougsa Mbarga was unable to attend. Andres Sebastian Rojas and Jun Wu resigned in May and June 2018, respectively. Following the previous practice, Shengxiong Yang participated in the meetings in his capacity as a candidate nominated by the Government of China for the election to fill vacancies on the Commission.

II. Activities of the contractors

A. Implementation of training programmes under contracts for exploration and allocation of training opportunities

3. On 2 July, the Commission was briefed on the selection of candidates for training programmes since part I of the 2018 session, held from 12 to 23 March, when it had been agreed that the training subgroup would work with the Secretariat in the intersessional period to identify appropriate candidates for training opportunities. Seven first-ranked and six alternate candidates were selected in the intersessional period on the basis of the recommendations of the training subgroup. The training places are as follows:

(a) One fellowship offered by Global Sea Mineral Resources (GSR) pursuant to its contract for polymetallic nodules to pursue a two-year master's degree programme in marine and lacustrine science and management (oceans and lakes) starting in the third quarter of 2018;

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(b) Six theoretical and at-sea training opportunities offered by JSC Yuzhmorgeologiya under its 2018/19 training programme pursuant to its contract for polymetallic nodules.

4. At part I of the 2018 session, the Commission had been invited to select an additional 11 candidates for three training programmes being offered by three contractors pursuant to their contracts for exploration with the Authority. On the basis of the suggestions of the training subgroup, 11 first-ranked and 11 alternate candidates were selected by the Commission. The training places are as follows:

(a) Five at-sea placements being offered by Deep Ocean Resources Development under its 2019 training programme;

(b) Two offshore internship placements being offered by GSR for the beginning of 2019 pursuant to its contract for polymetallic nodules;

(c) Four at-sea placements offered by China Minmetals Corporation broken down as follows: two places in 2018 and two in 2019.

5. Details on the selections are contained in document ISBA/24/LTC/9.

B. Annual reports of contractors

6. The Commission considered 27 annual reports on activities carried out by contractors in 2017, noting that two contractors did not need to report at that time on their activities in 2017 because the contracts had been signed recently. Of the reports reviewed, 17 were related to exploration for polymetallic nodules, 6 to exploration for polymetallic sulphides and 4 to exploration for cobalt-rich ferromanganese crusts. Following its previous practice, the Commission set up three working groups to review the geological and technological, environmental, and legal, financial and training aspects of the annual reports. In addition to specific comments on each report to be conveyed to the relevant contractor by the Secretary-General, the Commission made the following general comments:

(a) The Commission finds that most contractors met the reporting requirements under the standard clauses of the contracts. However, there were a few cases where the contractors were not completely fulfilling their contractual obligations;

(b) One contractor had again, during the period under review, not reported any substantive work, while another three contractors had continued not to fulfil the Commission's recommendations;

(c) The Commission welcomes the presentation of well-structured annual reports complying with the template it issued in 2015 (ISBA/21/LTC/15) by the overwhelming majority of contractors. However, several contractors are mixing the reporting of data in two contract areas or reporting by multiple contractors. The Commission reminds contractors that the commitments established under each contract represent a separate obligation. Each contract must be reported on separately and a work programme delivered for one contract cannot fulfil a contractor's obligations against another. Contractors' attention is drawn to the obligation to deliver all reported environmental and geological data in a digital and spatially georeferenced format compatible with the Authority's requirements (see ISBA/21/LTC/15, annex IV);

(d) Most contractors provided the financial statements in the format recommended by the Commission. The contractors that did not follow the recommended format have been brought to the attention of the Secretary-General, who is requested to remind those contractors to file their financial reports in

accordance with the recommended format. The Commission further notes that a number of contractors had not expended funds to the estimated levels of expenditure, falling short in some cases by as much as 80 per cent;

(e) The Commission welcomes the fact that most contractors had performed very well in this area of training. However, there is still a need to remind a few remaining contractors to fully implement their respective training programmes as agreed with the Secretary-General and included in their contracts as schedule 3;

(f) The Commission notes the larger number of cruises conducted in 2017 (14) and days at the sea (more than 1,000);

(g) The Commission notes that the Authority's system for resources classification is being adopted by contractors as mature exploration programmes. The Commission recalls that the identification of indicated or measured resources is expected to be completed by all contractors by the end of the contract for the exploration's term;

(h) The Commission considers that the completion of high resolution bathymetric surveys at an adequate scale to assist future exploitation plans of work is particularly important for contractors that have entered into a period of extension. The Commission welcomes the research to operationalize the development of seabed mining, in particular metallurgical studies and experiments in technologies for the extraction of the three types of marine resources;

(i) The Commission notes that at the current rate of progress, some contractors risk being unable to deliver the commitments for the initial five-year period of the plan of work established in its contract for exploration. The obligation to deliver the contract for exploration commitments applies to all contractors equally and is monitored by the Commission;

(j) Data provision by many contractors is good, but a number have not provided digital data for the last year. An ongoing issue to be addressed by some contractors is a reluctance to provide data prior to separate scientific publication or where they have been collected as part of an international research programme. The Commission stresses to contractors that data must be provided under the terms of the contract, and notes that data can be treated as confidential for a period, where necessary or appropriate;

(k) Most contractors have made good progress in the collection or analysis of baseline environmental data, making further progress in the analysis of existing or new data or in some cases taking stock of previous data and undertaking a review of many years of data collection that will support future sampling efforts. Two contractors have not advanced towards environmental objectives at all for two years in a row;

(l) In general, the Commission is pleased with the quality of the environmental studies being conducted. Contractors have all largely been following methodology as detailed in the recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area (ISBA/19/LTC/8). Environmental studies, especially for biological communities, remain focused on seafloor data, but the Commission notes an increasing level of mid-water sampling, especially in cobalt-rich crust environments. There were again some issues with small sample sizes and insufficient numbers of sampling stations for describing environmental variability in some areas, as well as some differences in methodology or sampling equipment that may constrain regional-scale analyses;

(m) Some contractors have taken less notice than expected of the Commission's evaluation on previous annual reports. The Commission goes to considerable lengths to review reports and provide constructive advice to contractors where the Commission feels improvements in the collection or analysis of environmental data can be made. While the Commission acknowledges that the responsibility to carry out the plan of work rests with the contractor, the Commission will continue to advise contractors in order to ensure that the quality of the baseline data being collected is as high as possible;

(n) The Commission notes, and expresses support for, the continuing trend of collaboration between contractors in such areas as methodological and analytical standardization, linkages between contractor scientists and international research programmes, sampling in areas of particular environmental interest and exploration areas, and shared vessel time between contractors.

7. It is recommended that the Secretary-General communicate the various issues identified during the review to the respective contractors and request the contractors to address those issues.

C. Report on the periodic reviews of the implementation of plans of work for exploration

8. On 2 July 2018, the Commission took note of the report on the periodic reviews of the implementation of plans of work for exploration (see ISBA/24/LTC/8) and welcomed the invitation by the Secretary-General to review the reports and other information provided by the contractors and to make such recommendations as might be deemed appropriate to assist him in carrying out his responsibilities under the regulations, including recommendations on any additional data and information that might be necessary for the purposes of the reviews. The Commission will consider ways to give effect to that invitation at its next session, in March 2019.

III. Regulatory activities of the Authority

A. Consideration and adoption of the draft regulations on the exploitation of mineral resources in the Area

9. The Commission devoted the first week of meetings to a review of the draft regulations on the exploitation of mineral resources in the Area (see ISBA/24/LTC/WP.1 and ISBA/24/LTC/WP.1/Add.1), reflecting its discussions at its March 2018 meetings, together with a review of the note by the secretariat on the draft regulations (see ISBA/24/LTC/6). The Commission made available a revised text of the draft regulations (see ISBA/24/LTC/WP.1/Rev.1) for consideration by the Council. In addition and at the request of the Council (see ISBA/24/C/8, para. 20), the Commission prepared a briefing note for the Council on matters requiring further examination by the Commission and matters on which it seeks the Council's direction or guidance (see ISBA/24/LTC/20).

B. Recommendations for the guidance of contractors for the assessment of possible environmental impacts arising from the exploration for marine minerals in the Area

10. On 12 July, the Commission considered the draft revised recommendations for the guidance of contractors for the assessment of possible environmental impacts

arising from the exploration for marine minerals in the Area (ISBA/19/LTC/8) and agreed to work on and adopt the draft intersessionally and submit the final revised recommendations to the Council at its March 2019 session.

IV. Development of other environmental management plans in the Area

11. On 10 July, the secretariat reported on the outcomes of the Qingdao workshop held in May 2018 on the development of regional environmental management plans (REMPs) for cobalt-rich crusts in the north-west Pacific and of the Szczecin workshop held in June 2018 on development of REMPs for polymetallic sulphides in mid-ocean ridges. The outcomes of both workshops would be published as technical studies of the Authority. The Commission commended the workshops for having developed road maps for the development of REMPs. It was suggested that in developing new REMPs, lessons should be learned from the implementation of the existing REMP in the Clarion-Clipperton Zone. Some members also suggested that the geographic extent of REMPs should take into account appropriate environmental conditions and ecological biogeography. It was suggested that in developing a REMP for the cobalt-rich ferromanganese crust in the north-west Pacific, consideration should be given to collaborating with the coastal states. The possibility of using historic data in the development of the REMP could be explored.

V. Implementation of the data management strategy of the Authority

12. On 10 July 2018, the secretariat made a presentation on the status and projections of the database, which was followed by a live demonstration of the operability of the database. The Commission noted with appreciation that the database is scheduled to come on stream in October 2018, commended the secretariat for its work in that respect and encouraged it to continue its ongoing work and add further functions, such as some standard spatial analysis and mapping routines to assist in making informed decisions. The Commission considered that the full implementation of the data management strategy of the Authority would facilitate the work of the Authority, the contractors and other users. It was suggested that the capabilities of the database could be expanded by creating linkages between the database of the Authority and other databases.

VI. Other matters

13. On 4 and 11 July, the Commission considered both environmental impact assessments and their associated monitoring plans, submitted by the German Federal Institute for Geosciences and Natural Resources and GSR, respectively, to test mining components. It took note of the progress made by the Secretariat in the review process, which is projected to be finalized by end-September 2018. In the light of the review, the Commission was pleased to see that the contractors had been following its recommendations as contained in document ISBA/19/LTC/8. The Commission agreed that a working group would continue the review process intersessionally to ensure the completeness, accuracy and statistical reliability of both submissions, and would communicate its comments to the Secretary-General at the earliest opportunity. The Commission also agreed to set up another working group to consider the process for its review of the proposal of an environmental impact assessment for test mining or test mining components in the future.

14. On 10 July, the Commission took note of a report submitted by the legal working group on liability for environmental harm and decided to consider the report and subsequent actions at its next session, in March 2019.

15. During this session, the Commission established a working group to investigate a systematic approach to facilitate the secretariat's management of the relinquishment of areas under the contracts for exploration for polymetallic sulphides and for cobalt-rich ferromanganese crusts. The working group expects to be able to report the outcomes of its investigation to the Commission at its March 2019 session.